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GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 4th December, 1947

ORDINANCE No. XXVIII of 1947

AN

ORDINANCE

to create the Cotton Textiles Equalisation Fund and to levy surcharge on the prices of certain cotton textiles manufactured in the Provinces of India.

WHEREAS an emergency has arisen which makes it necessary to stabilize the prices of the cotton textiles manufactured in the Provinces of India and for that purpose to create a fund by levying surcharge on the prices of certain cotton textiles manufactured in the Provinces of India;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Cotton Textiles Equalisation Fund Ordinance, 1947.

(2) It extends to all the Provinces of India.

(3) It shall be deemed to have come into force on the 1st day of December, 1947.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "cloth" and "yarn" mean respectively the cloth and yarn of which prices have been fixed by any order made under section 3 or continued by section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946);

(b) "Fund" means the Cotton Textiles Equalisation Fund established under section 3;

(c) "prescribed" means prescribed by rules made under this Ordinance;

(d) "producer" means a person engaged in the production of cloth or yarn or both by power as defined in clause (f) of section 2 of the Factories Act, 1934 (XXV of 1934), and the expression "produced" shall be construed accordingly.

3. The Cotton Textiles Equalisation Fund.—(1) The Central Government shall, for the purposes of this Ordinance, create and maintain a Fund to be called the Cotton Textiles Equalisation Fund.

(2) The Fund shall consist of the surcharge and the penalty, if any, imposed under this Ordinance.

4. Levy of surcharge.—The Central Government may, by notification in the official Gazette, levy on the prices of any cloth or yarn produced in any textile mill or factory after the 30th day of November 1947 or, in the case of cloth used after such date, within such mill or factory for the manufacture of any article of clothing or any other article from cloth, a surcharge at such rate as may be specified in the notification.

5. Power to exempt.—The Central Government may, by notification in the official Gazette, exempt any cloth or yarn produced by any producer or class of producers from the surcharge levied under section 4.

6. Payment of surcharge.—The surcharge shall be paid by the producer to such authority, within such time and in such manner as may be prescribed.

7. Penalty for non-payment.—If any surcharge payable under this Ordinance is not paid as prescribed, it shall be deemed to be in arrears and the authority prescribed may, after such enquiry as he deems fit, impose on the producer a penalty not exceeding the amount of surcharge in arrears.

8. Recovery of surcharge and penalty.—The amount of surcharge in arrears and any sum imposed as penalty under section 7 shall, without prejudice to any other liability incurred under this Ordinance, be recovered as arrears of land revenue.

9. Surcharge and penalty to be credited to the Fund.—The amount of any surcharge paid under section 6 and the amount of any surcharge in arrears and the penalty thereon recovered under section 8 shall be credited to the Fund

10. Application of Fund.—(1) The Central Government may apply the Fund for—

- (a) meeting the expenses of administering the Fund;
- (b) paying subventions to producers as prescribed; and
- (c) making grants, not exceeding twelve-and-a-half per cent. of the moneys to the credit of the Fund, to the Provincial Governments and such other authorities as may be constituted by the Central Government for carrying on such labour welfare measures for the benefit of workers in the cotton textile industry as may be approved by it.

(2) Where any dispute arises as to whether or not any particular expenditure is debitable to the Fund, the decision of the Central Government thereon shall be final.

11. Accounts and Audit.—The accounts of the Fund shall be kept in such manner as may be specified by the Auditor General of India and shall be audited by him.

12. Power of inspection, entry and search.—Any authority authorised by the Central Government in this behalf may with a view to securing compliance with this Ordinance,—

(a) require any producer to furnish to such authority such information relating to his business as that authority may specify;

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of such producer;

(c) enter and search or authorise any person to enter and search any premises and seize or authorise any person to seize any cloth or yarn in respect of which he has reason to believe that a contravention of this Ordinance or any rule made thereunder has been or is about to be committed.

13. Penalty for evasion of surcharge or failure to comply with order under section 12.—(1) Whoever evades or attempts to evade the payment of surcharge payable by him under this Ordinance or fails to comply with any order issued to him under clause (a) of section 12 or furnishes any information which is false and which he knows or has reasonable cause to believe to be false or does not believe to be true, shall be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Any Court trying any offence under this Ordinance may order that any cloth or yarn together with the packages or coverings thereof in respect of which the Court is satisfied that an offence under this Ordinance has been committed shall be forfeited to the Central Government

14. Compounding Offences.—(1) The authority prescribed may accept from any producer who has committed or who is reasonably suspected of having committed an offence under this Ordinance or any rule made thereunder, a sum of money in lieu of prosecution by way of composition for the offence.

(2) On payment by such person of such sum of money to such officer, such person, if in custody, shall be set at liberty and any property seized shall be released, and, if magisterial proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

15. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) provide for the method of levy and collection of the surcharge;

(b) prescribe the authorities to whom, the time within which and the manner in which the surcharge shall be payable;

(c) provide for the appointment of officers to supervise the issue or use of cloth or yarn within any textile mill or factory;

(d) provide for the records to be maintained by a producer;

(e) regulate the manner of inspection or search of any premises used for the production or storage of cloth or yarn and the seizure of the cloth or yarn liable to seizure;

(f) provide for the method of recovery of the amount of surcharge in arrears and any penalty thereon;

(g) provide for any other matter which is to be or may be prescribed.

(3) In making any rule under this section the Central Government may provide that a breach of the rule shall, where no other penalty is provided by this Ordinance, be punishable with fine not exceeding one thousand rupees.

MOUNTBATTEN OF BURMA,
Governor General.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.